

REMARKS/ARGUMENTS

Claims 2-3 and 12-13 are canceled without prejudice or disclaimer. Accordingly, as a result of this amendment, claims 1 and 4-11 are pending. Claim 1 was amended to incorporate the canceled subject matter of claim 2; claim 4 was amended to specify "isolated" antibodies; claim 9 was amended to correct dependency. No new matter is added by these amendments, and the Examiner is respectfully requested to enter them.

The Examiner's comments are address below in the order they were made.

I. Objections to the Specification

The disclosure was objected on the basis that USSN 09/762,960 has now issued. Accordingly, the specification is amended to update the related patent information.

II. Rejections Under 35 U.S.C. § 101

Claim 4 was rejected as directed to non-statutory subject matter. Accordingly, claim 4 is amended to add the word "isolated." This rejection may now be withdrawn.

III. Rejections Under 35 U.S.C. § 102(a)

Claims 1 and 3 were rejected as anticipated by Saegusa et al. (1998) Dev. Growth and Differentiation 40:343-353, on the basis that Saegusa et al. describe a mouse protein having a polynucleotide sequence 87.7% identical to SEQ ID NO:11. Accordingly, claims 2 and 3 are canceled and the canceled subject matter incorporated into claim 1. In light of this amendment, it is believed this rejection is overcome and this rejection may now be withdrawn.

IV. Rejections Under 35 U.S.C. § 103(a).

A. Claims 4-7 are rejected as obvious over Saegusa et al. in view of Harlow and Lane (1989) Antibodies. It is believed that the above amendment to claim 1 renders this rejection moot, as neither the cited prior art reference describes the antigen to which the antibodies are directed, namely the human DCR5 protein having the amino acid sequence of SEQ ID NO: 12. Further, the combined

references also fail to yield the claimed invention as the combined references fail to suggest or describe the antigen to which the antibodies are directed. Accordingly, the Examiner has failed to establish a *prima facie* case of obviousness, and this rejection must be withdrawn.

B. Claims 10-11 were rejected as obvious over Saegusa et al. in view of Ashkenazi et al. (1997) Current Opinion in Immunology 9:195-200. This rejection is respectfully traversed and the above discussion under IV (A) is fully applicable to this rejection and is hereby incorporated by reference in response to this rejection. In light of the amendment to claim 1, Applicants respectfully assert that the combined references do not disclose or suggest a fusion protein including a protein having the amino acid sequence of SEQ ID NO:12. Accordingly, the Examiner has failed to establish a *prima facie* case of obviousness, and this rejection must be withdrawn.

V. Rejections Under 35 U.S.C. § 112, first paragraph.

A. Claim 3 was rejected under the first paragraph of § 112. This rejection is rendered moot by cancellation of claim 3.

B. Claims 12-13 were rejected for lack of enablement. This rejection is rendered moot by cancellation of claims 12-13.

VI. Rejections Under 35 U.S.C. § 112, second paragraph.

A. Claim 3 was rejected as indefinite. This rejection is rendered moot by cancellation of claim 3.

B. Claims 4-5 were rejected as indefinite. It is believed that this rejection is overcome by the amendment to claim 1, upon which claims 4-5 depend. Accordingly, it is respectfully requested that this rejection be withdrawn.

C. Claim 9 was rejected for lack of antecedent basis for recitation of “the protein” and “the host cell.” Accordingly, claim 9 is amended to correctly recite from claim 8 rather than claim 7. Accordingly, it is believed that this rejection may now be withdrawn.

D. Claims 1, 3-7, and 10-13 were rejected as indefinite for recitation of the term “DCR5”. Claims 3 and 12-13 are canceled. It is believed that the rejection of claims 1, 4-7, and 10-11 are

overcome by the amendment to claim 1. Accordingly, it is respectfully requested that this rejection be withdrawn.

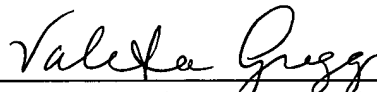
Conclusion

In light of the above amendments and arguments, Applicants contend that all claims are now in condition for allowance, and respectfully request such action.

Fees

No fee is deemed necessary in connection with filing this Amendment. However, if any fee is necessary, authorization is hereby given to charge the amount of any such additional fee to Deposit Account No. 18-0650.

Respectfully submitted



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